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Item No. 3
Halifax Regional Council
December 7, 2021

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by

Jacques Dubé, Chief Administrative Officer

DATE: November 8, 2021

SUBJECT: Legislative Update – 2021 Fall Sitting

INFORMATION REPORT

ORIGIN

2021 fall sitting of the Provincial Legislature.

LEGISLATIVE AUTHORITY

The relevant statutes for each legislative request are outlined in the discussion section of this report or in the attached legislative request tracking sheet (Attachment A).

BACKGROUND

The 2021 fall sitting of the Provincial Legislature commenced on October 12, 2021 and adjourned on November 5, 2021. The fall sitting was the first under the Houston Government, elected in the summer of 2021.

During the fall sitting, five pieces of legislation were passed which directly impact HRM:

- 1. Bill No. 32 Amendments to the *Municipal Government Act* and *Halifax Regional Municipality Charter* (Inclusionary Zoning);
- 2. Bill No. 61 Joint Regional Transportation Agency Act;
- 3. Bill No. 63 Housing in the Halifax Regional Municipality Act;
- 4. Bill No. 43 Amendments to the Motor Vehicle Act (Bicycle Signals & Noise By-laws); and
- 5. Bill No. 57 Environmental Goals and Climate Change Reduction Act.

An overview of these legislative changes is provided below.

Prior to the 2021 fall sitting, HRM had fifteen active outstanding legislative requests from Regional Council

submitted to the Province for consideration. Three of these requests were addressed, either in whole or in part, by legislation approved during the fall sitting. These include Bill 32 – Inclusionary Zoning, and Bill 43 – Bicycle Signals & Noise By-laws. An updated legislative request tracking sheet is included with this report (Attachment A).

DISCUSSION

1. <u>Bill No. 32 - Amendments to the *Municipal Government Act* and *Halifax Regional Municipality Charter* (Inclusionary Zoning)</u>

Bill 32 introduces amendments to the *Halifax Regional Municipality Charter* (HRM Charter) and the *Municipal Government Act* (MGA), which provide municipalities with new planning powers and tools to help address affordable housing needs. These include:

- allowing the Municipality to require and regulate affordable housing within developments through land-use by-laws, including requiring that a specified percentage of affordable housing units be provided within a development;
- creating an exception to the prohibition on the Municipality providing direct financial assistance to a business if it is for the purpose of increasing the availability of affordable housing; and
- allowing the Municipality to accept money in lieu for affordable housing rather than the developer providing the units.

The legislative changes will enable HRM to implement inclusionary zoning, which addresses a key legislative request dating back to 2016. Inclusionary zoning refers to policies, by-laws and programs that require residential development proposals to include a certain number of affordable housing units and provide for those units to be maintained as affordable over a period of time. Utilizing inclusionary zoning practices can promote access to affordable housing in a range of locations with access to employment, transit, education, and other services.

Council's inclusionary zoning request was bought forward to the Nova Scotia Affordable Housing Commission (Commission), which was formed in 2020 to provide recommendations to the Province in response to the affordable housing crisis. The Commission's final report, released in the summer of 2021, recommended that the Province provide municipalities with greater policy tools to pursue affordable housing initiatives, including inclusionary zoning. In October 2021, the Houston Government released its plan for addressing housing and homelessness. The Plan included a commitment to move forward with amendments enabling inclusionary zoning, which were introduced via Bill 32.

Bill 32 additionally enables HRM to provide financial support and incentives to for profit businesses for the purpose of increasing the availability of affordable housing by creating an exception in the HRM Charter, which generally prohibits direct financial support for businesses. The amendment recognises that a key hurdle for the provision of affordable housing is the expense to build and operate, which can deter developers. The amendments are enabling, allowing HRM to develop programing to offset the cost and/or incentivise the development of affordable housing, but does not require that the Municipality do so.

Link to Bill No. 32: https://nslegislature.ca/legislative-business/bills-statutes/bills/assembly-64-session-1/bill-32

2. Bill No. 61 - Joint Regional Transportation Agency Act

Bill 61, the *Joint Regional Transportation Agency Act*, establishes the Joint Regional Transportation Agency ("Agency"). The Agency will seek to bring together regional stakeholders to examine transportation planning challenges and opportunities in HRM to ensure the region is positioned to respond to anticipated future growth. The creation of the Agency was put forward in the Houston Government's <a href="https://doi.org/10.1007/journal.org/

The Agency will be set up as a crown corporation reporting to the Minister of Public Works, with a Board of Directors appointed by Cabinet composed of licensed professional planners, engineers, and others with the technical expertise and qualifications set out in the regulations. It will have a small staff contingent, which the Province has indicated will include technical experts selected by the Department of Public Works, as well as HRM. The Act allows the Minister to create a Technical Advisory Board composed of representatives from HRM, the Halifax Port Authority, the Halifax International Airport Authority, and Halifax Harbour Budges.

The mandate of the Agency will be to review of all modes of transportation in the municipality - including roads, bridges, highways, ferries, transit, rail, airports and ports - for the purposes of creating a five-year transportation master plan to improve the flow of people and goods in and out of the Municipality, factoring in all modes of transportation. This plan will focus on achieving a consistent regional approach to transportation planning consistent with the Municipality's growth and development, as well as ensuring the safe, efficient and co-ordinated movement of people and goods. Once approved by Cabinet, it is intended that the transportation plan will guide the work of HRM and other regional partners.

The Province has noted that by creating the Agency, it hopes to establish a more formalized, structured approach for working collaboratively with regional stakeholders to address transportation challenges and opportunities within the Halifax region. However, Bill 61 has raised concerns that the Agency's work may duplicate existing municipal transportation plans and strategies. To avoid this, HRM has requested that existing HRM transportation plans and strategies be taken into consideration and that the Integrated Mobility Plan be used as a starting point for the Agency's work. The Chief Administrative Officer presented the Municipality's position on this Bill at Law Amendments.

Link to Bill No. 61: https://nslegislature.ca/legislative-business/bills-statutes/bills/assembly-64-session-1/bill-61

3. Bill No. 63 - Housing in the Halifax Regional Municipality Act

Bill 63, the *Housing in the Halifax Regional Municipality Act*, establishes the Executive Panel on Housing in the HRM ("Panel") and provides both the Panel and the Minister of Municipal Affairs and Housing with new powers to approve developments in HRM. The creation of the Panel was another item put forward in the Houston Government's housing.and.nomelessness.plan as a measure to help increase the supply of housing.

The Panel will report directly to the Minister of Municipal Affairs and Housing and will be composed of two representatives from HRM (nominated by the Municipality, appointed by the Minister), and three appointed by the Province, with one of those provincial appointees acting as Chair. The decisions of the Panel are by majority, with the Chair holding the tie breaking vote.

The mandate of the Panel will be to provide recommendations to the Minister and the Municipality on how to accelerate housing development, and factors affecting housing supply, including the availability of land, the taxation environment, the availability of labour and any other factors that may affect housing development. This will include reviewing applications made under Parts 8 (Planning and Development) and 9 (Subdivisions) of the HRM Charter and making recommendations on how individual applications or other requests could be expedited.

Bill 63 additionally grants the Minister with new powers to designate areas within HRM as "special planning areas", providing that the Minister is satisfied that the designation is required to accelerate housing development in the municipality. Within a special planning area, the Minister and the Panel to exercise specific authority within those areas relating to planning matters. This authority includes:

- Enabling the Minister, on the recommendation of the Panel, to amend or repeal land-use by-laws, along with any necessary amendments to municipal planning strategies;
- Enabling the Minister, on the recommendation of the Panel, to approve a development agreement
 or an amendment to a development agreement, and, if after fourteen days of the notification of
 the Ministerial approval, the Municipality has not signed the development agreement, or the
 amendment to a development agreement, the Minister may sign the agreement on behalf of the
 Municipality.; and
- Enabling the Panel to grant a development permit or subdivision approval in place of a development officer.

Where this authority is exercised, Regional Council, a community council, or a development officer are then unable to exercise their given authority under the HRM Charter with respect to those matters. Procedural requirements under the HRM Charter, such as public participation and public hearings, are also suspended with regard to decisions relating to special planning areas. The decisions of the Minister and Panel are binding on HRM, are not subject to appeal, and may not be reconsidered by the Municipality without the approval of the Minister or the Panel.

Bill 63 notes that the Panel will be dissolved three years from the date the Act comes into force.

The Province has noted that Panel will serve as a joint taskforce to bring the Province and HRM together to work quickly to increase the supply of housing in HRM. However, Bill 63 has raised concerns relating to transparency and the potential to override municipal planning bylaws in special planning areas. Mayor Savage presented the Municipality's position on this Bill at Law Amendments.

Link to Bill No. 63: https://nslegislature.ca/legislative-business/bills-statutes/bills/assembly-64-session-1/bill-63

4. Bill No. 43 - Amendments to the Motor Vehicle Act (Bicycle Signals & Vehicle Noise By-laws)

Bill 43 introduces several amendments to the *Motor Vehicle Act* (MVA) with those most relevant to HRM being amendments enabling municipalities and the Province to install traffic control signals for bicycles, as well as an amendment authorizing municipalities to create by-laws regulating objectionable motor vehicle noise. These amendments respond to two outstanding legislative requests from Regional Council, both dating from 2017 (see Attachment A for details on legislative requests).

The Province had already indicated that Council's legislative requests relating to bicycle traffic signals and the regulation of motor vehicle noise would be incorporated under the new *Traffic Safety Act* (TSA). The TSA was passed in 2018 and will eventually replace the MVA. However, due to the complexity of the new

legislative scheme, the Province has indicated that the TSA will not be proclaimed until the accompanying regulations are prepared; a process the Province had estimated will take several years.

HRM has several outstanding legislative requests relating to the MVA/TSA, which staff have sought to be incorporated in the transition to the new TSA. Consultations on the TSA draft regulations are ongoing at the time of writing. To date, the Province has indicated that the following outstanding requests will be incorporated into the new TSA legislative scheme:

- Regulation of Motor Vehicle Noise (subsection 45(1)(i) of the TSA);
- Bicycle Traffic Signals and Crossrides (incorporated in the TSA draft Use of Road Regulations);
- Dooring (incorporated in the TSA draft Use of Road Regulations).

In October 2021, the Province announced an anticipated further delay of three to four years before the TSA is proclaimed, citing the need to develop the supporting information technology system. As an interim measure, Bill 43 introduces some of the time-sensitive legislative requests to the MVA, which had already been committed to under the TSA, as outlined above. These MVA amendments will allow municipal projects and initiatives to move forward without having to wait for the TSA to be proclaimed.

Link to Bill No. 43: https://nslegislature.ca/legislative-business/bills-statutes/bills/assembly-64-session-1/bill-43

5. Bill No. 57 - Environmental Goals and Climate Change Reduction Act

Bill 57 introduces the *Environmental Goals and Climate Change Reduction Act*, which includes 28 new Provincial goals relating to environmental protection and climate change. Unlike previous legislation, Bill 57 sets out Provincial goals in the legislation itself with further details on how each goal will be actioned to follow. Some highlights/commitments from the new legislation are:

- Reducing emissions to at least 53 per cent below 2005 levels by 2030 and achieve net zero by 2050.
- Phasing out coal-fired electricity generation and having 80 per cent of electricity in Nova Scotia supplied by renewables by 2030.
- Creating a Provincial Active Transportation Strategy by 2023 and completing core "all ages and all abilities" active transportation networks in 65 per cent of the Province's communities by 2030.
- Adopting the 2020 National Energy Code for Buildings within 18 months of it being published by the Government of Canada.
- Conserving a minimum of 20 per cent of the total land and water mass of the Province by 2030 as protected areas.
- Modernizing the environmental assessment process by 2024 to take into consideration factors such as climate change, equity and inclusion, and cumulative impacts.
- Expanding extended producer responsibility and reducing the use of single-use plastics, as well as reducing solid waste disposal rates to no more than 300 kilograms per person per year by 2030.
- The creation of a new Sustainable Communities Challenge Fund, which will be used to support competitive opportunities that encourage communities in their climate change mitigation and adaptation efforts.
- Developing a zero-emission vehicle mandate under which, at a minimum, that 30 per cent of new vehicle sales of all light duty and personal vehicles will be zero-emission by 2030.
- A commitment to work with municipalities, and others, to take immediate and long-term action on their climate change priorities.

Many of the details regarding implementation of these goals will be established in regulations, as well as a strategic plan, called the "Climate Change Plan for Clean Growth", which must be prepared by the end of 2022. In addition, the legislation commits the Province to release annual progress reports.

Staff will review the proposed plans to action these goals as they are released by the Province. The goals set out in the Act, along with the provincial commitment to work with municipalities to advance their climate change priorities, are positive developments. Provincial support will better position HRM to implement HalifACT, the Green Network Plan, the Center Plan, the Regional Plan, the Integrated Mobility Plan, and the Rapid Transit Strategy. HRM administration provided a written submission on this Bill to Law Amendments.

Link to Bill No. 57: https://nslegislature.ca/legislative-business/bills-statutes/bills/assembly-64-session-1/bill-57

Additional Highlights from 2021 Fall Sitting

Other notable highlights from the 2021 fall sitting include:

- <u>Bill No. 1</u> (Amendments to the *Elections Act*) introduces fixed dates for provincial general elections, set at the third Tuesday of July every four years.
- <u>Bill No. 30</u> (Amendments to the *Residential Tenancies Act*) introduces new rules for protecting residential tenants, including protections against "renovictions".
- <u>Bill No. 62</u> (*Interim Residential Rental Increase Cap Act*) extends a 2 per cent cap on residential rent increases until the end of 2023.
- <u>Bill No. 71</u> (*Tourism Nova Scotia Dissolution Act*) transitions Tourism Nova Scotia from a crown corporation to a division of the Department of Communities, Culture, Tourism and Heritage.

Other Legislative Updates

Where possible, staff have sought to utilize participation in formal provincial consultations as one means of seeking to advance Council's outstanding legislative requests. Over the summer and fall of 2021, staff participated in a number of provincial consultations, during which relevant outstanding requests were highlighted for provincial consideration. These included:

- Nova Scotia Sustainable Development Goals Act Consultations.
- Parks and Protected Areas Provincial Consultations.
- Coastal Protection Act Consultations.
- Traffic Safety Act Draft Regulation Consultations (ongoing).

In addition to the items moved forward during the 2021 fall sitting, the Houston Government's homelessness.plan sets out a commitment for the Minister of Municipal Affairs and Housing to meet with municipalities during the fall and winter of 2021/22 to discuss additional municipal tools to support affordable housing. The Plan makes specific reference to exploring the regulation of short-term rental units as well as providing flexibility in taxation to encourage affordable housing development. The goal of these discussions will be to introduce further HRM Charter/MGA amendments, possibly as soon as the 2022 spring sitting of the Legislature.

Council has several outstanding legislative requests which may be engaged during these discussions, including:

- Amendments to the *Halifax Regional Municipality Marketing Levy Act* to apply the marketing levy to operations consisting of less than 20 rooms or rental units (Requested in 2020);
- Amendments to the Halifax Regional Municipality Marketing Levy Act to remove the cap on the marketing levy (Requested in 2021); and
- Amendments to the *Public Utilities Act* to enable Halifax Water to waive fees for non-profit affordable housing (Requested in 2020).

Staff continue to meet regularly with the Department of Municipal Affairs and Housing and other provincial departments to review and discuss Council's outstanding legislative requests, as well as engage in formal and informal consultations to help advance requests where possible.

FINANCIAL IMPLICATIONS

No financial implications at this time.

RISK CONSIDERATION

No risk considerations were identified.

COMMUNITY ENGAGEMENT

No community engagement was required.

ATTACHMENTS

Attachment A – Halifax Regional Council Legislative Request Tracking Sheet - November 2021

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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Attachment A

Halifax Regional Council Legislative Requests [Last updated November 2021]

Active Requests

Particulars of Request	
1.	Crosswalk Penalties - Motor Vehicle Act/Traffic Safety Act Request for Province to consider increasing non-monetary penalties for crosswalk violations.
	Date of Request: March 10, 2015 – Item 11.5.3
2.	Barrington South Heritage District Potential Development Suspension - Heritage Property Act
	Request that the Province amend the <i>Heritage Property Act</i> and Heritage Conservation Districts regulations, where appropriate, to authorize the Council to adopt a by-law that would suspend specific types of development, for a period not exceeding one (1) year, within the boundaries of an area that council has identified as part of a background study to establish a Heritage Conservation District.
	Date of Request: February 24, 2016 – Item 11.5.3
	Sanctions for Code of Conduct Breaches – Halifax Regional Municipality Charter
3.	Request to initiate legislative changes to the <i>Halifax Regional Municipality Charter</i> allowing for the ability to censure Members of Council by remitting remuneration for violations to AO 52, Code of Conduct for Municipal Officials.
	Date of Request: September 20, 2016 – Item 14.4.1
4.	Inclusionary Zoning – Halifax Regional Municipality Charter
	*Addressed during 2021 fall sitting under Bill No. 32
	Request that the Province amend the <i>Halifax Regional Municipality Charter</i> to enable Council to implement inclusionary housing for all or part of the Municipality.
	Date of Request: December 13, 2016 – Item 9.2.1

5.	Parking Fines - Summary Offence Ticket Regulations
	Request the Province amend the Summary Offence Ticket Regulations to increase parking fines for "other" parking types only; not inclusive parking meter violations, as outlined in Option 1, Attachment D (Appendix A) of the

8.	Regulation of Motor Vehicle Noise - Motor Vehicle Act/Traffic Safety Act *Addressed during 2021 fall sitting as per Bill No. 43 Request amendments to the Standards for Vehicle Equipment regulations and the Motor Vehicle Act to address the issue of noisy mufflers. Date of Request: October 17, 2017 – Item 14.2.2
9.	Green Network Plan – Halifax Regional Municipality Charter Request that the Province amend the Halifax Regional Municipality Charter, as set out in Actions 18 and 61 of the Halifax Green Network Plan, to: (a) enable the Municipality to acquire sensitive environmental lands (e.g. riparian areas, wetlands, steep slopes, etc.) as an environmental reserve through the land development and subdivision process, in addition to existing parkland dedication provisions; and (b) enable a greater range of legislative abilities, such as the ability to enact parkland dedication requirements based on density to address development that does not include the subdivision of land. Date of Request: August 14, 2018 - Item 14.3.1
10.	Lobbyist Registry – Halifax Regional Municipality Charter/Lobbyist Registration Act Request staff engage with the Province regarding the possibility of an amendment to the Halifax Regional Municipality Charter to expand the provincial Lobbyist Registration Act to include regulation of lobbying conducted at the local government level. Date of Request: October 2, 2018 – Item14.3.2

11.	Transportation Network Company Fees - Motor Vehicle Act/Traffic Safety Act
	Request that the Province amend the <i>Motor Vehicle Act</i> to enable the Municipality to charge Transportation Network Companies (TNCs) per-trip fees. This will enable the Municipality to generate additional revenues as part of the forthcoming regulation of TNCs like Uber and Lyft.
	Date of Request: January 14, 2020 – Item 15.3.1
	Construction Mitigation Fund – Halifax Regional Municipality Charter
12.	Request that the Province amend the <i>Halifax Regional Municipality Charter</i> to enable HRM to establish a construction mitigation fund to assist with marketing and promotions for business impacted by lengthy construction projects, as well as to provide direct compensation to private sector businesses in those cases where reasonable parking and access cannot be maintained.
	Date of Request: February 25, 2020 – Item 15.1.7
	Short-Term Rental Market Levy – Halifax Regional Municipality Marketing Levy Act
13.	Request that the Province amend the <i>Halifax Regional Municipality Marketing Levy Act</i> to enable the Municipality to apply the marketing levy to operations consisting of less than 20 rooms or rental units.
	Request a staff report for the Mayor to also ask the Province to amend the <i>Marketing Levy Act</i> to allow for a possible increase to the maximum marketing levy as described in the letter received from Discover Halifax on September 28, 2020.
	Date of Request: September 22, 2020 – Item 11.1.20
14.	Halifax Water Fees for Non-profit Affordable Housing – Public Utilities Act
	Request that the Province amend the <i>Public Utilities Act</i> to allow Nova Scotia Utility and Review Board to give Halifax Water the ability to waive their fees for non-profit affordable housing.
	Date of Request: November 10, 2020 – Item 11.1.1

15.	Removal of Market Levy Cap – Halifax Regional Municipality Marketing Levy Act
	Request that the Province amend the Halifax Regional Municipality Marketing Levy Act to remove the cap on the marketing levy.
	Date of Request: February 23, 2021 – Item 11.2.1

Other/Inactive Requests

Particulars of Request	
1.	Heritage Registration Sunset Clause - Heritage Property Act
	Requesting sunset clause of 90 days for impact clerical errors have on heritage registration.
	Date of Request: April 22, 2008 – Item 12.3
2.	Permanent Resident Municipal Voting Rights – Municipal Elections Act
	Include permanent residents as qualified electors to vote in municipal and school board elections in the Halifax Regional Municipality Charter and the Municipal Elections Act.
	Date of Request: December 2, 2014 – Item 11.1.4
3.	Commercial Tax Options – Halifax Regional Municipality Charter
	 Request that the Province make changes to legislation governing the assessment process so that (a) the annual valuation is averaged over a three-year period, or (b) the full assessment roll is updated every 3-4 years as is the current policy in Saskatchewan and Ontario. Request amendments to the Halifax Regional Municipality Charter that would provide Council with greater legislative authority in setting taxes and charges respecting the general tax rate and area rates for both residential and commercial properties.

	3) Request to work with Service Nova Scotia and the Property Valuation Services Corporation (PVSC) to change the commercial tax assessment so it is based on 3 past years of assessment rather than one year. This would increase predictability in annual commercial tax bills by evening out increases.
	Date of Request: November 10, 2015 – Item 4
4.	 Traffic Control Persons for Special Events – Motor Vehicle Act/Traffic Safety Act Request that the Government of Nova Scotia: Amend the Nova Scotia Motor Vehicle Act to permit Traffic Control Persons to direct the movement of traffic for special events; Modify the Province's training and accreditation processes to reflect special events-related roles for Traffic Control Persons and Temporary Workplace Signers; and ' Revise the Province's TC Manual to include standards, principles and guidelines applicable to special events-related traffic control scenarios.
	Date of Request: April 25, 2017 – Item 14.3.1
	Speed Limits in Residential Areas – Motor Vehicle Act/Traffic Safety Act
5.	Request that the Province of Nova Scotia reduce the speed limit in residential districts identified in section 101(2) of the <i>Motor Vehicle Act</i> to forty kilometres per hour (40 km/h).
	Date of Request: April 11, 2017 – Item 14.4.1